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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,665	02/25/2004	Mario Rabinowitz		2979
41857	7590	06/09/2005		
MARIO RABINOWITZ 715 LAKEMEAD WAY REDWOOD CITY, CA 94062			EXAMINER TRA, TUYEN Q	
			ART UNIT 2873	PAPER NUMBER

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/786,665	<b>Applicant(s)</b> RABINOWITZ ET AL.	
	<b>Examiner</b> Tuyen Q. Tra	<b>Art Unit</b> 2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-10 and 12-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7-10 and 12-23 is/are rejected.
- 7) ☒ Claim(s) 11 and 24 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground of rejection.

#### Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-4 are claiming apparatus of device; however, the claim body is directed to method of manufacturing device. An appropriate correction is required.

#### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 3-5, 7-10 and 12-23 are rejected under 35 U.S.C. 102(e) as being anticipated by Rabinowitz et al. (U.S. Pat. 6,698,693 B2).

The applied reference has a common inventor (Rabinowitz) with instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by showing under CFR 1.132 that any invention disclosed but

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not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another", or by and appropriate showing under 37 CFR 1.131.

a) With respect to claim 1, Rabinowitz et al. discloses

- an array of rotatable mirrored balls (item 2) embedded in the sheet;
- the array disposed behind an optically transmissive surface (item 14, Fig. 6); and
- each of the mirrored balls (1) encapsulated in a surrounding medium of an optically transmissive fluid (item 18).
- electromagnetic coupling means (item 15) to rotate the mirror balls within the sheet (1).

b) With respect to claim 5, Rabinowitz et al. discloses a dynamic multi-wavelength switching ensemble in figure 5 comprising of steps:

- providing or supplying the sheet of optical transmissive surface (item 1, Fig. 6) surrounding or injecting (a fluid 18 from a plenum reservoir 19; col. 7, line 43) the mirror balls (item 2) with a shell (item 17) of lubricating fluid (item 18);
- electromagnetic coupling means (item 15) to rotate the mirror balls within the sheet (1).

c) With respect to claims 3, 4, 7, 8, Rabinowitz et al. further discloses wherein fluid is a lubricant (18) or dielectric fluid.

d) With respect to claims 9, 12, 13, 15, 16 and 19, it should be noted that although claims 9, 19 are "method claims", the method steps consist of the broad steps of "holding", "introducing" etc and therefore these steps would be inherently satisfied by the apparatus of the reference '176 as modified.

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- e) With respect to claim 10, Rabinowitz et al. further discloses wherein at least one tray holds the mirrored balls in place in the sheet during its formation.
- f) With respect to claims 14, 17 and 18, Rabinowitz et al. further discloses wherein the index of refraction of at least one of the fluids approximately matches that of the sheet (5, Fig. 12); wherein the density of at least one of the fluid approximately matches that of the mirrored balls; wherein at least one of the fluid is lubricated; wherein at least one of the infiltrating fluids is vaporously removed; wherein the ratio of the volume of the material of the sheet (5) to the volume of the mirrored balls is greater than a factor of 2.
- g) With respect to claims 20-23, Rabinowitz et al. further discloses wherein a random dispersion of rotatable mirrored balls (item 2) are encapsulated in the sheet; wherein the mirrored balls (2) are precoated prior to being embedded in the sheet (5); herein the mirrored balls are asymmetrically closer to the top of the sheet (5) than to the bottom; wherein the sheet is constructed of laminar film.

#### **Allowable Subject Matter**

- 4. Claims 11 and 24 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The reason for the indication of allowable subject matter is that (claim 11) at least one pillar support said sheet to enhance fluid access during the sheet infiltration and expansion process; (claim 24) zeolites are in the fluid bath to help keep it dean and deionized disclosed in the claims is not found in the prior art.

RESPONSE TO APPLICANT'S ARGUMENT

5. Applicant's argued in remark page that Rabinowitz et al. 176' patent does anywhere have the words "solar", "sun", "solar energy". New ground rejection with Rabinowitz et al. (6,698,693 B2) does disclose all these words and similar concept for concentrating solar system. In addition, applicant's claims basic on the reflection of the mirror which applicant mainly relies on as a solar concentrator, any other patents which does the same function to reflect sun light are applicable to use as solar concentrator.
6. Applicant's argued in remark page 3 that patent 176' does not deal with any production, making, manufacturing or fabrication process. Applicant should be noted that basic method steps are consist of the broad steps of "providing", "switching", "applying", "disposing"...etc. and therefore these steps would be inherently satisfied by the apparatus of the reference as modified.

**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuyen Tra whose telephone number is (571) 272-2343. The examiner can normally be reached on Monday to Thursday from 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps, can be reached on (571) 272 - 2328. The fax number for this Group is (703) 872-9306.

tt

May 30, 2005

  
Hung Xuan Dang  
Primary Examiner